

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

DANIEL HOOK,

Plaintiff,

Case No. 2:15-cv-10152

vs.

Hon.

UNITED STATES OF AMERICA,

Defendant.

BRIAN J. McKEEN (34123)
J. KELLY CARLEY (P38892)
McKEEN & ASSOCIATES, P.C.
Attorneys for Plaintiff
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COMPLAINT

PRELIMINARY STATEMENT

1. Plaintiff, DANIEL HOOK, was a resident of the City of Trenton, County of Wayne, State of Michigan, at the time of the malpractice alleged in this matter.
2. Plaintiff brings this action against the Defendant, United States of America under the Federal Tort Claims Act.
3. DR. JAMIE SUTTON, is a Michigan licensed physician, board-certified in internal medicine, who was practicing emergency medicine in the City of Ann Arbor, County of Washtenaw, State of Michigan, at the time of the malpractice alleged in this matter.
4. At all times pertinent to the allegations in this Complaint, the Department of Veteran Affairs (hereafter V.A.) was an executive agency of the United States government.

5. At all times pertinent to the allegation in this Complaint, Dr. Jamie Sutton was employed by the V.A. and United States of America.

JURISDICTION AND VENUE

6. This Court has jurisdiction over the subject matter of this Complaint under 28 U.S.C. § 1331 and 1346(b).

7. On or about June 26, 2013, Plaintiff submitted an Administrative Tort Claim to Claims Office CELB/GLD/OGC and the V.A. Plaintiff's claim was denied on July 16, 2014, therefore, Plaintiff has exhausted all available administrative remedies.

8. Venue is properly with this District under U.S.C. § 1402(b) as the acts that are the subject of this Complaint occurred in Washtenaw County at the time of the malpractice and at that time the Plaintiff resided in Wayne County.

PARTIES

9. At all times relevant hereto the Plaintiff, Daniel Hook, was a resident of the City of Trenton, County of Wayne, State of Michigan.

10. At all times relevant hereto, Dr. Jamie Sutton, was a physician employed by the V.A., an executive agency of the United States of America.

11. At all times relevant hereto, Dr. Sutton was acting within the scope of his employment with the V.A., as such, the Defendant, the United State of America is the appropriate Defendant.

FACTUAL ALLEGATIONS

12. The Plaintiff realleges paragraphs 1 through 11 as if set forth fully herein.

13. On July 17, 2011, the Plaintiff, Mr. Hook, then 79, presented to the emergency room at the VA Hospital in Ann Arbor with complaints of abdominal pain and nausea.

14. Mr. Hook came under the care of Jamie Sutton M.D., who found that Mr. Hook had a distended abdomen.

15. Blood work indicated an elevated WBC with a shift to the left.

16. An abdominal x-ray showed multiple loops of dilated small bowel resulting in air-fluid levels which were consistent with a small bowel obstruction. It was further noted that the x-ray was ABNORMAL and ATTENTION was NEEDED.

17. Mr. Hook was given an enema and discharged with a diagnosis of constipation.

18. The next day, July 18, 2011, Mr. Hook presented to the Henry Ford Hospital Wyandotte emergency room with continued complaints of abdominal pain.

19. Mr. Hook vomited and aspirated black, bilious vomitus in the emergency room which caused aspiration pneumonia and ultimately septic shock.

20. Mr. Hook was diagnosed with a small bowel obstruction.

21. Mr. Hook's condition continued to deteriorate and he could not be weaned off the ventilator therefore on July 30, 2011 he was transferred to Henry Ford Hospital Detroit.

22. While at HFH Detroit Mr. Hook continued treatment for his pneumonia and a DVT that he developed. Ultimately was discharged on August 16, 2011.

23. As result of the failure to diagnose and treat Mr. Hook's small bowel obstruction on January 17, 2011 at the Ann Arbor VA Hospital he suffered severe damages including, but not limited to, aspiration pneumonia, which permanently damaged his lungs; septic shock; bowel damage; unnecessary hospitalizations; DVT; decubitus ulcers; and an overall diminishment in his health.

FEDERAL TORT CLAIM ACT – MEDICAL NEGLIGENCE

24. Plaintiff realleges paragraphs 1 through 23 as if set forth fully herein.

25. At all times pertinent hereto, Dr. Jamie Sutton, owed a duty to the Plaintiff, Daniel Hook, to render medical treatment in a reasonable and prudent manner consistent with the applicable standard of care for internists practicing emergency medicine.

26. Notwithstanding his suspected duty, Dr. Jamie Sutton, was professionally negligent and breached his duties to the Plaintiff, Daniel Hook, in the following ways:

- a. Failing to recognize the significance of Mr. Hook's small bowel obstruction as identified on abdominal x-ray;
- b. Failing to recognize the significance of the air-fluid levels as identified abdominal x-ray;
- c. Failing to recognize the significance of Mr. Hook's elevated WBC at 15.8 (n. 4 – 11);
- d. Failing to recognize the significance of Mr. Hook's elevated neutrophil percentage at 87.9% (n. 45 – 75%) or leftward shift;
- e. Failing to diagnose Mr. Hook's small bowel obstruction;
- f. Failing to diagnose Mr. Hook's disease and/or acute pathology;
- g. Failing to place a nasogastric tube;
- h. Failing to consult the surgical service and/or gastroenterology service;
- i. Failing to admit Mr. Hook's for further observation, testing and treatment.

27. As a direct and proximate result of the above breaches in the standard of care by the Defendant, Dr. Jamie Sutton, the Plaintiff, Daniel Hook, suffered the following damages including, but not limited to, aspiration pneumonia, permanent damage to his lungs, septic shock, bowel damage, unnecessary hospitalizations and expense, DVTs, decubitus ulcers, physical and emotional pain, mental suffering, unnecessary medical expenses, and a general diminishment of his overall health.

DAMAGES

28. Plaintiff realleges paragraphs 1 through 27 as if set forth fully herein.

29. As a direct and proximate result of the professional negligence and medical malpractice described above, the Plaintiff, Daniel Hook, has suffered serious and permanent injury; extreme pain; mental anguish; anxiety and depression; disfigurement; loss of substantial sums of money for both past and future hospital, medical, clinic, and prescription costs; permanent lung damage and a general diminishment of his overall health.

WHEREFORE, the Plaintiff, DANIEL HOOK, respectfully requests compensatory damages, reasonable attorney fees and costs, and such other relief that is just and appropriate.

Respectfully Submitted:
McKEEN & ASSOCIATES, P.C.

/s/ J. Kelly Carley
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